IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 15550 OF 2005

Date of Decision : 10.10.2006

Narinder Pal Singh … Petitioner

Versus

State of Punjab and others. … Respondents

CORAM : Hon'ble Mr. Justice J.S. Khehar,
Hon'ble Mr. Justice S.D. Anand.

Present : Mr. Kanwal Jit Singh, Advocate,
for the petitioner.

Mr. Ashok Aggarwal, Addl. Advocate General, Punjab,
for the respondents.

S.D. Anand, J.

The petitioner joined the employment of the respondents, as an official in the office of respondent No.3. His initial posting was as a Clerk. He was promoted as Steno-typist on 13.11.1972. Thereafter, he earned promotion to the post of Junior Scale Stenographer, Senior Assistant and Excise and Taxation Inspector on 4.7.1981, 16.9.1991 and 28.6.2001 respectively. He was due for superannuation on 31.7.2006. His father came to be incarcerated in Rawalpindi jail for a period more than two years and was released only on 22.3.1947. Certification dated 21.1.1980 issued in that behalf by the Superintendent, District Jail, Ravalpindi is Annexure P-1. Yet another revised certification indicating that he had been admitted to the Ravalpindi Jail on 5.3.1945 and was released on 22.3.1947 under the Maintenance Order Ordinance, is Annexure P/2. The incarceration was in connection with the freedom struggle. On that account, he was declared a freedom fighter and was recipient of a freedom fighter pension. Certification

dated 19.4.1996 documenting the release of freedom fighter pension to him by the Central Government is Annexure P/3. Petitioner's father died on 16.1.2000. It is mother of the petitioner, who is presently recipient of the freedom fighter pension. Instructions dated 4.4.1985 (Annexure P/5) indicate the grant of various concessions/facilities to the freedom fighters and their wards. The granted concessions include "re-employment to a freedom fighter in the state service uptil the age of 60 years", besides certain amount of reservation in admission to the MBBS/BDS Courses in the State Medical Colleges and direct recruitment in the State Service and also in allotment of residential plots etc. Those instructions provide that the concessions aforesaid would be available to those freedom fighters and their wards who have either been granted freedom fighter pension from the Punjab Government or have been awarded Tamra Patras for their political sufferings during pre-Independence freedom movement. In the light of those instructions, the petitioner applied for continuation in service up to the age of 60 years vide representation dated 16.4.2003 (Annexure P/6). However, representation dated 16.4.2003 aforesaid was declined by the respondents without assigning any reason and also without affording him an opportunity of hearing.

The petitioner filed the present writ petition for issuance of a writ, in the nature of certiorari, for invalidation of the impugned order dated 29.10.2004 (Annexure P/9).

The plea raised by the respondents, in the course of a joint written statement, is that the petitioner is not entitled to the benefit of the instructions relied upon by him in view of the fact that he had not sought employment as a ward of freedom fighter and had also not indicated in his

application dated 18.07.1971 that he was a ward of a freedom fighter. The further plea advanced on behalf of the respondents is that the concession on point of re-employment up to the age of 60 years is available only to a freedom fighter himself and it is not available to the wards of a freedom fighter. Reliance, in support of the averred plea, was placed upon the instructions dated 10.7.2000 (Annexure R-1) which offered a clarification in the relevant context.

It is presently beyond the pale of controversy that instructions dated 10.7.2000 do offer a clarification that the concession with regard to re-employment till the age of 60 years has not been extended to the Children / Grand Children of the freedom fighters. The relevant part of those instructions is extracted hereunder:-

> "Govt. has noticed that some of the departments have granted concessions of re-employment to the wards of freedom fighters. In this regard, it is clarified that only those freedom fighters and their wards shall be eligible who are getting pension as freedom fighter from the Punjab Govt. or holding award of Tamra Patras. They have been allowed concessions for the re-employment in the State services uptill the age of 60 years <u>but this concession has not been granted to the Children/Grand Children of freedom fighters</u>." (underlined for emphasis).

The validity of those instructions is not under challenge in the present writ petition. Faced with the predicament of having to explain the non-posing of a challenge to the validity of those instructions, all that the learned counsel for the petitioner could argue was that these instructions were not to the notice of the petitioner. The plea advanced is neither here

nor there. The presently uncontroverted position, in the light of the unchallenged instructions (Annexure R-1), is that the concession on point of reemployment to the age of 60 years is not available to Children/Grand Children of the freedom fighters.

We are convinced, on a conjunctive perusal of Annexures P/5 and Annexure R/1, that the petitioner is not entitled to the concession of re-employment being ward of a freedom fighter in the light of the latter instructions which hold the forte.

The petition is devoid of merit and is dismissed.

(S.D. Anand)
Judge

October 10, 2006 (J.S. Khehar)
vkd Judge